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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 838

JOSEPH S. SMOLEN,

Petitioner,

—v.—

STATE OF CONNECTICUT,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

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STATE OF CONNECTICUT,

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

Petitioner prays that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Connecticut entered in the above-entitled case on July 20, 1967.

Citation to Opinions Below

The order of the Supreme Court of the State of Connecticut denying petition for certification is unreported and is printed in the Appendix, *infra*, p. 1a. The opinion of the Appellate Division of the Twelfth Circuit Court is reported in 4 Conn. Cir. 385; 232 A. 2d 339, and is set forth in the Appendix, *infra*, pp. 2a-11a.

Jurisdiction

The order of the Supreme Court of the State of Connecticut was entered on July 20, 1967 (R. 31; App., *infra*, p. 1a). On October 10, 1967, Mr. Justice Harlan extended the time within which to file the petition for certiorari to and including November 17, 1967. The jurisdiction of this Court is invoked under 28 U. S. C. §1257(3).

Statutes Involved

Conn. Gen. Stats. Sec. 14-13. Registration number and certificate.

(b) Such certificate [of registration] shall at all times be carried upon such motor vehicle when upon the public highway, except as otherwise provided.

Conn. Gen. Stats. Sec. 14-223. Disobeying orders of officer.

> Whenever the operator of any motor vehicle fails promptly to bring his motor vehicle to a full stop upon the signal of any officer in uniform or prominently displaying the badge of his office, or disobeys the direction of such officer with relation to the operation of his motor vehicle, he shall be fined not less than five nor more than twenty-five dollars for a first offense and not less than ten nor more than fifty dollars for any subsequent offense.

Question Presented

Whether police roadblocks which are set up to stop motor vehicles without any knowledge that a crime has been or is being committed, in order to determine whether the vehicles are registered and their drivers licensed, violate the Fourth, Fifth, Ninth and Fourteenth Amendments.

Statement of the Case[1]

On December 17, 1966, at about 12:20 A.M., Connecticut State Trooper Hill and Auxiliary Trooper Taft, both working out of Troop C, were engaged in spot checking motor vehicles by means of a roadblock at the intersection of Route 32 and Crow Hill Road. They were checking among other things lights, registration, licenses and defective equipment.

Petitioner in his automobile was stopped at the roadblock by the Troopers.[2] Though petitioner questioned the Troopers' right to stop him, he produced his license as requested. He indicated he did not have his registration with him but a check at the barracks established that the automobile was validly registered.

Trooper Hill asked petitioner to move his car because it was blocking the road. When petitioner refused to do so, he was arrested and charged with failure to carry automobile registration certificate (Conn. Gen. Stats. §14-13

[1] The Statement repeats in narrative form the findings of fact and amended findings of fact of the trial court (R. 6A-8, 11).

[2] The findings recite that petitioner "attempted to go by Auxiliary Taft" (Finding 9; R. 6A) but he "finally did stop" (Finding 12; R. 6A). These facts have no bearing on the question presented.

(b)) and failure to obey orders of an officer (Conn. Gen. Stats. §14-223). He was also handed a written warning for no marker lights.

Roadblocks to make spot checks for violations are frequently set up by Troop C. Unless it would back up a line of traffic, all vehicles are stopped at the roadblock whether or not they show any defective equipment. At the time of the stopping, the officers have no way of knowing whether or not the driver has a proper registration and a proper license.

Neither Trooper Taft nor Trooper Hill had reason to believe that the petitioner had committed a crime when they stopped his car.

At trial, after a plea of not guilty, petitioner was convicted. He was fined $1.00 for failure to carry Registration Certificate and $15.00 for failure to obey orders of officer (R. 4). The convictions were affirmed on appeal to the Appellate Division of the Circuit Court. The Connecticut Supreme Court denied a Petition for Certification.

How the Federal Questions Were Raised

At trial,[3] petitioner's attorney, at the close of evidence argued that "the stopping of an automobile by a policeman and the requirement that a driver produce his registration and operator's license are a violation of his constitutional rights under the Fourth, Fifth and Fourteenth Amend-

[3] Though the transcript of the record of trial in the Circuit Court, Twelfth Circuit, is not part of the Record as certified below, petitioner has filed a copy of the transcript for the sole purpose of showing how the federal questions were raised at trial. References to the transcript are designated by the symbol "T".

ments . . . where the officer has no reason to believe that a crime has been committed by the motorist" (T. 16-17). Counsel also argued that "the stopping and the compelled production are an unreasonable seizure and abridgment of the zone of privacy recognized by the Supreme Court in *Griswold v. Conn.* [sic]" (T. 17). The trial court explicitly rejected these arguments: ". . . The Court is not going to declare anything unconstitutional" (T. 28).

The federal questions were raised on appeal to the Appellate Division and explicitly rejected in its written opinion, *infra*, pp. 2a-11a; and again raised in the petition for certification (R. 15-20) filed in and denied by the Supreme Court of the State of Connecticut.

Reasons for Granting the Writ

Though this Court held in *Carroll* v. *United States*, 267 U. S. 132 (1925), and *Brinegar* v. *United States*, 338 U. S. 160 (1949), that a warrantless search of an automobile must be bottomed on probable cause, the decision below holds the search and arrest in this case valid notwithstanding the total absence of any knowledge by the police that petitioner had committed a crime. Not even the stop and frisk cases which are before the Court this term[4] are comparable. In those cases, the arresting officers had at least suspicion—or perhaps only intuition—that a crime had been committed. But in the case at bar, there is nothing—only a problematical chance that of all the automobiles stopped at the roadblock, some would be driven by unlicensed persons or by persons without their license in their

[4] *Terry* v. *Ohio*, No. 67; *Peters* v. *New York*, No. 74; *Sibron* v. *New York*, No. 63.

possession, or that some of the vehicles would be unregistered or driven by persons without the registration certificate in their possession, or that some cars would have defective equipment.

The opinion below justified the roadblock on the ground that "Since the preservation and safety of users of our public highways is a matter of vital public concern, and an appropriate subject for the exercise of the police power of the state, we hold that roadblock stopping of vehicles for the purpose set forth herein is constitutionally permissible as a valid exercise of that power where such stopping is done in good faith and is not used as a mere subterfuge or pretext, or as an excuse for failure to procure a warrant" (R. 25; App., *infra*, p. 9a).[5]

Thus, the precise question in this case is whether crimes intrinsically related to the operation of automobiles are of such a singular nature that they justify the abandonment of constitutional standards otherwise required to validate arrests and searches by police officers.

Injuries and deaths caused by automobiles are unarguably matters of vital public concern.[6] But so are the

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[5] The court rejected petitioner's right to privacy argument for essentially the same reasons (R. 26-28; App., *infra*, pp. 9a-11a).

Likewise, the holding in the opinion below that the stop at the roadblock was not an arrest, was rooted in "the particular circumstances of this case" (R. 24; App., *infra*, p. 6a). The immediately preceding citation in the opinion to *Murphy* v. *State*, makes it clear that the "particular circumstances" refer to the same "vital public concern" for automobile safety that is made more explicit in other portions of the opinion.

[6] There were 53,000 motor-vehicle deaths in 1966. National Safety Council, Accident Facts 1967 Edition, p. 3.

injuries and deaths related to fires,[7] cf. *See* v. *Seattle*, 387 U. S. 541 (1967), the health hazards that come from inferior housing, cf. *Camara* v. *Municipal Court*, 387 U. S. 523 (1967),[8] the economic consequences of crimes against property,[9] cf. *Henry* v. *United States*, 361 U. S. 98 (1959), and the immeasurable harm that results from traffic in narcotics,[10] cf. *Aguilar* v. *Texas*, 378 U. S. 108 (1964), and *Wong Sun* v. *United States*, 371 U. S. 471 (1963). In none of those cases, however, did this Court discard the Fourth and Fifth Amendments because the evils which the searches were designed to uncover were of grave national concern.

In *Schmerber* v. *California*, 384 U. S. 770 (1966), this Court upheld the involuntary extraction, without a warrant, of blood to determine if petitioner was driving an automobile while intoxicated. But the Court's decision was based squarely on the fact that "[t]here was plainly probable cause for the officer to arrest petitioner and charge him with driving an automobile while under the influence of intoxicating liquor." 384 U. S. at 768. In the case at bar, by contrast, there was a total absence of knowledge of any kind that petitioner did not have his registration certificate in his possession.

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[7] There were 7,900 deaths from fire in 1966. *Id.* at 6.

[8] It may be that the equivalent of the routine area inspection by warrant prescribed in *Camara* is also the minimum constitutional requirement in roadblock cases. If so, there is no such intimation in the decisions below.

[9] It is estimated that the current national loss from such crimes is $3,932,000,000. The President's Commission on Law Enforcement, Task Force Report: Crime and Its Impact—An Assessment, p. 44.

[10] President's Commission on Law Enforcement, Task Force Report: Narcotics and Drug Abuse, *passim*.

Surely, driving while intoxicated is infinitely more serious than driving without one's registration certificate.[11] If evidence to support a conviction for the former must rest upon an antecedent valid arrest, it would be constitutionally anomalous if the same requirement were ignored as to the latter. As the Court said in *Schmerber*, "The overriding function of the Fourth Amendment is to protect personal privacy and dignity against unwarranted intrusion by the State." 384 U. S. at 767. If that function is not nullified for drunk drivers, it can hardly be said to be nullified for the technical sort of violation of which petitioner was convicted—a violation which endangered no one.[12]

CONCLUSION

For the reasons set forth above, the petition should be granted.

Respectfully submitted,

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November 17, 1967.

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[11] The National Safety Council believes that "Drinking may be a factor in at least half of the fatal motor-vehicle accidents . . ." Accident Facts, 1967 Edition, p. 52.

[12] The question presented in this case is not confined to the State of Connecticut. Virtually every state requires motorists to carry their operator's license while driving and to display it upon the demand of a police officer. Note, The Driver's License 'Display' Statute: Problems Arising From Its Application, 1960 Wash. U. L. Q. 279, note 1.

APPENDIX

Order Denying Certification

July 20, 1967

SUPREME COURT

MV 12-37020

STATE OF CONNECTICUT,

—v.—

JOSEPH S. SMOLEN.

The defendant having filed a petition for certification and the court having considered said petition finds that it should be denied.

Whereupon it is ordered that said petition be and it hereby is denied.

By the Court

/s/ DOMINIC A. DICORLETO
Dominic A. DiCorleto
Clerk

Opinion of the Appellate Division of the Twelfth Circuit Court

Appellate Division of the Circuit Court

Argued May 16, 1967 Decided May 29, 1967

File No. MV 12-37020 AP

STATE OF CONNECTICUT,

—v.—

JOSEPH S. SMOLEN.

Complaint charging the defendant in the first count with failure to carry registration certificate and in the second count with failure to obey orders of an officer, brought to the Circuit Court in the twelfth circuit and tried to the court, *Daly, J.*; judgment of guilty on both counts and appeal by the defendant. *No error.*

Karl Fleischmann, of Hartford, for the appellant (defendant).

Eugene T. Kelly, prosecuting attorney, for the appellee (state).

JACOBS, J. The defendant was convicted in a trial to the court of failure to carry registration certificate in violation of § 14-13(b)[1] of the General Statutes and of failure to obey

[1] "Sec. 14-13 REGISTRATION NUMBER AND CERTIFICATE. (a) . . . (b) Such certificate shall at all times be carried upon the public highway . . . ."

orders of an officer in violation of § 14-223[2] of the General Statutes, and he has appealed from the judgment.

The facts are substantially undisputed. On December 16, 1966, at about 9:30 p.m., two uniformed state police troopers were engaged in spot-checking all automobiles by means of a roadblock which was set up at the intersection of route 32 and Crow Hill Road, public highways, located in the town of Stafford, for the purpose of checking safety equipment, registration certificates and operators' licenses. Early the next morning, on December 17, 1966, at about 12:20 a.m., a Mercury automobile operated by the defendant, was proceeding in a southerly direction on route 32, when one of the state troopers waved him to come to a halt, but the operator attempted to pass the trooper without stopping. When the defendant did come to a stop, the trooper requested him to back his vehicle because it was blocking the highway. The defendant refused to remove his car from the traveled portion of the highway. He questioned the officer's right to stop him. In its corrected finding, the trial court found that the officers "had no reason to believe that the defendant had committed a crime when they stopped his car." At the request of the officer, the defendant produced a valid Connecticut operator's license; and, although the vehicle was properly registered under the laws of this state, the defendant failed to produce on request the certificate of registration. The defendant was thereupon given a uniform traffic ticket notifying him to

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[2] "Sec. 14-223 DISOBEYING ORDERS OF OFFICER. Whenever the operator of any motor vehicle fails promptly to bring his motor vehicle to a full stop upon the signal of any officer in uniform or prominently displaying the badge of his office, or disobeys the direction of such officer with relation to the operation of his motor vehicle, he shall be fined not less than five nor more than twenty-five dollars for a first offense, and not less than ten nor more than fifty dollars for any subsequent offense."

appear in the Circuit Court on January 16, 1967, to answer to the foregoing violations. The defendant then continued on his way. He was neither booked nor was bond required of him.[a]

The basic issues involved on this appeal are: (1) whether roadblock stopping of vehicles to check operators' licenses, certificates of registration, safety equipment and the like constitutes an arrest; (2) whether roadblock stopping of vehicles is constitutionally permissible as a valid exercise of the police power; and (3) whether roadblock stopping of vehicles constitutes an invasion of privacy.

I

Under Connecticut law, "[a]n arrest in criminal cases is the apprehending, or detaining the person in order to be forthcoming to answer an alleged or suspected crime." 2 Swift, Digest (1822 ed.) p. 387; see *Ryan* v. *Ebecke*, 102 Conn. 12, 18; 6 C.J.S., Arrest § 1(b); 4 Wharton, "Criminal Law and Procedure" (Anderson Ed.) § 1581; 1 Orfield, "Criminal Procedure under the Federal Rules" (1966 Ed.) § 4.4. In *Henry* v. *United States*, 361 U. S. 98, 80 Sup. Ct. 168, 4 L. Ed. 2d 134, decided in 1959, the Court said (p. 103): "The prosecution conceded below, and adheres to the concession here, that the arrest took place when federal agents stopped the car. This is our view on the facts of this particular case. When the officers interrupted the two men and restricted their liberty of movement, the arrest, for purposes of this case, was complete." See Sobel, "Current Problems in the Law of Search & Seizure" (1964 Ed.)

[a] We are justified in assuming some of these facts, although they do not appear in the finding, on the basis that the defendant was given a uniform traffic ticket which was made a part of the record on appeal. See Practice Book, §§ 852, 853.

115. But we do not interpret the *Henry* case as standing for for the proposition that every stopping of an automobile constitutes a technical arrest. In *Rios* v. *United States*, 364 U. S. 253, 80 Sup. Ct. 1431, 4 L. Ed. 2d 1688, decided one year after *Henry*, the Court left open the question whether the momentary halting of an automobile for investigation purposes automatically constitutes an arrest. And in *Brinegar* v. *United States*, 338 U. S. 160, 69 Sup. Ct. 1302, 93 L. Ed. 1879, Mr. Justice Jackson, a leading exponent of a citizen's fourth amendment rights, in a dissenting opinion, said (p. 188): "I do not, of course, contend that officials may never stop a car on the highway without the halting being considered an arrest or a search. Regulations of traffic, identifications where proper, traffic census, quarantine regulations, and many other causes give occasion to stop cars in circumstances which do not imply arrest or charge of crime." "To determine whether an arrest has taken place [in this case], we look to the facts to see if there has been 'an actual restraint of the person.'" Foote, "The Fourth Amendment: Obstacle or Necessity in the Law of Arrest." 51 J. Crim. L. & P. S. 402, 403. "To constitute an arrest, there must be an actual or constructive seizure or detention of the person, performed with the intention to effect an arrest and so understood by the person detained." *Jenkins* v. *United States*, 161 F. 2d 99, 101. The stopping of the defendant's car in this case cannot be considered as an arrest. No intent to apprehend the defendant was shown and no move was made to take him into custody at the time. The officers did not open the car door when it was stopped, nor state that the defendant was under arrest, nor touch his person. See *Gilliam* v. *United States*, 189 F. 2d 321, 323; Perkins, "The Law of Arrest," 25 Iowa L. Rev. 201. Restatement, Torts 2d § 112, comment c. "It is settled law.

that peace officers have the unquestioned right to detain one driving an automobile for the purpose of examining his driver's license. Such a detention is not unlawful where it is done in good faith for that specific purpose. But when it is a mere subterfuge, 'or an excuse for a failure to procure a . . . warrant,' it is unlawful." *Murphy* v. *State,* 194 Tenn. 698, 701, 254 S. W. 2d 979.

We hold that the stopping of the defendant's car under the particular circumstances of this case was not an arrest. See 1 Orfield, "Criminal Procedure under the Federal Rules" (1966 Ed.) § 4.66, p. 193; *Busby* v. *United States,* 296 F. 2d 328, 332, cert. denied, 369 U. S. 876, 82 Sup. Ct. 1147, 8 L. Ed. 2d 278; *United States* v. *Bonanno,* 180 F. Sup. 71, 79; *Barrier* v. *Alexander,* 100 Cal. App. 2d 497, 500, 224 P. 2d 436; *Toledo* v. *Lowenberg,* 99 Ohio App. 165, 167, 131 N. E. 2d 682; *People* v. *Yerman,* 246 N. Y. S. 665; *Lipton* v. *United States,* 348 F. 2d 591, 593. See *State* v. *Amara,* 152 Conn. 296.

II

Under the provisions of § 14-217,[4] any officer in uniform is given the authority to require any person who is operating or who is in charge of any motor vehicle to produce on demand his motor vehicle registration certificate and operator's license. And for the safety of the public, every operator is required to obtain an operator's license (§ 14-36) which he "shall carry . . . while operating such vehicle." (§ 14-213); furthermore, all vehicles must be registered in compliance with the provisions of § 14-13(a) and "[s]uch

[4] Section 14-217 is commonly referred to as the "display" statute. "Virtually every state has provided by statute that a motorist must carry his operator's license with him at all times while operating a motor vehicle, and display it upon the demand of a police officer." Note, 1960 Wash. U. L. Q. 279.

certificate shall at all times be carried upon such motor vehicle when upon the public highway, ..." § 14-13(b). "The operation of a motor vehicle upon the public highways is not an absolute right, but only a privilege which the state may grant or withhold at pleasure in the course of its regulation and control of public highways." 7 Am. Jur. 2d, Automobiles and Highway Traffic, § 6. Our courts have consistently held that "[a]n operator's license is purely a personal privilege, nontransferable and granted by the State on account of fitness . . . . The registration certificate is for purpose of identification and revenue." *Shea* v. *Corbett,* 97 Conn. 141, 145; *Dempsey* v. *Tynan,* 143 Conn. 202, 206; *Dentamaro* v. *Motor Vehicles Commissioner,* 20 Conn. Sup. 205, 208; 60 C. J. S., Motor Vehicles, § 60. In addition to these regulations, the Commissioner of motor vehicles is empowered by law to refuse to register any motor vehicle which is not equipped with lighting devices as prescribed by law. § 14-12. He may require as a condition precedent compliance with the provisions of the law governing such equipment for the "protection of other users of the highway." *Gonchar* v. *Kelson,* 114 Conn. 262, 265. "State legislatures may, in the exercise of their police and revenue powers, enact reasonable regulations requiring the licensing or registration of motor vehicles, the prime purpose of vehicle registration laws being to supervise vehicles, their movement and control, and to establish their identity in relation to the public and to any resultant damage or injury they may occasion; in this way proper supervisory authority may be invoked when it becomes necessary to verify the owner of the vehicle." 7 Am. Jur. 2d, Automobiles and Highway Traffic, § 50. The underlying purpose of the provisions of our motor vehicle laws is to establish throughout the state a uniform system.

There can be little doubt that "[t]he death rate from motor accidents rivals that of our severest wars."[5] *Brinegar* v. *State,* 97 Okla. Cr. 299, 308. "Increase of highway casualties is one of the most impelling social questions now confronting the public. Civic bodies and law enforcement officers at every level are bending their efforts to reduce them." *Thornhill* v. *Kirkman* (Fla.), 62 So. 2d 740, 742. In the light of such a compelling social problem, Professor Landynski asks: "Is there any situation short of probable cause which would justify a policeman in stopping an automobile? There is no doubt [he says] that he may do so for the purpose of enforcing the traffic laws, as, for example, the checking of drivers' licenses. One who drives an automobile does so subject to certain regulations made in the interest of community safety, and these would be meaningless if they could not be enforced." Landynski, "Search and Seizure and the Supreme Court" (1966 Ed.) 97. "It has been held that police officials may set up highway roadblocks for the purpose of requiring motorists to display their driver's license, and that such a practice does not invade their right to use the public ways free from unreasonable and unwarranted interception." 7 Am. Jur. 2d, Automobiles and Highway Traffic, § 98. Other jurisdictions have sustained roadblock stopping of vehicles under similar circumstances. See *City of Miami* v. *Aronovitz* (Fla.), 114 So. 2d 784; *Commonwealth* v. *Mitchell* (Ky.), 355 S. W. 2d 686; see *Mincy* v. *District of Columbia* (D. C.), 218 A. 2d 507; *Morgan* v. *Town of Heidelberg,* 246 Miss. 481, 150 So. 2d 512; Fisher, "Vehicle Traffic Law" (1961 Ed.) 375-

[5] We may take notice of the toll of automobile highway accidents in Connecticut in 1966. The statistics as furnished by the commissioner of motor vehicles show: number of deaths, 406; number of people injured, 33,243; number of accidents, 63,941; estimated property damage, $25,000,000.

377. Even Professor Reich, an eminent and distinguished authority in the field of civil liberties conceded that "violations such as lack of a valid license, defective equipment and even drinking are hard to detect without spotchecks." Reich, "Police Questioning of Law Abiding Citizens," 75 Yale L. J. 1161, 1167; see notes, 1960 Wash. U. L. Q. 279, 281; 6 Wayne L. Rev. 417; 51 Cal. L. Rev. 907; 46 Iowa L. Rev. 802. Since the preservation and safety of users of our public highways is a matter of vital public concern, and an appropriate subject for the exercise of the police power of the State, we hold that roadblock stopping of vehicles for the purpose set forth herein is constitutionally permissible as a valid exercise of that power where such stopping is done in good faith and is not used as a mere subterfuge or pretext, or as an excuse for failure to procure a warrant. There is nothing in the record before us to suggest or indicate that the spotcheck here was made for ulterior purposes.

III

As to the defendant's claim of invasion of his right of privacy, we can do no more than rely upon and adopt the rationale of *People* v. *Fidler*, 117 N. Y. S. 2d 312. In that case, the police told the drivers of Fidler's heavily-loaded trucks to drive them on a portable scale. The drivers refused. They took the keys out of the ignition switches and locked some of the doors of the cabs. They refused to turn the keys over to the police on request. The owner Fidler, who came in response to a phone call, was requested to turn over the keys so that the trucks could be weighed; he refused to do this or to direct his drivers to turn over the keys or to drive the trucks on the scale. Fidler and his drivers were arrested for and convicted of resisting a public officer in the discharge of his duty.

The Appellate Division of the Supreme Court of New York, in sustaining the conviction, said (p. 314): "There would seem to exist a difference in operative constitutional principle between the right of the state to authorize the police to 'inspect' a man's house or his person and its right to authorize the police to 'inspect' his automobile as to its operation, though the legal effect of 'inspect' in this sense is scarcely distinguishable from 'search.' When the state provides a public facility for private use and the use is by mechanical equipment, dangerous if defective, the right of public authority to examine the equipment as an incident to such use would seem incontestable. A rule of law must be adaptable to important changes in the way people live and act, or collapse under the weight of need and be replaced by something else. The cloak of the right of privacy extends generally to an automobile; but it does not protect the driver against an inspection to determine if there is immediate danger in the very thing which the citizen has placed in present operation on the public way. A defective vehicle on a teeming traffic lane may require instant intervention of public power and that kind of intervention on the highway is not an invasion of privacy in truth or in the sense in which the draftsmen of constitutional language had of the protection they were affording against unreasonable searches." See *Commonwealth* v. *Abell*, 275 Ky. 802. It should be emphasized that the defendant here, in common with other citizens, was intercepted on a public highway by uniformed state police officers who were making a systematic check of all drivers' licenses and registrations. The defendant does not claim, and there is nothing in the record to show, that he was subjected to any other type of search or seizure. "[T]he interests of the individual here must give way to the public interest." 1 Harper & James,

Torts (1956 Ed.) § 9.7, p. 686. In our view of this case, we find that no constitutional right of the defendant was invaded.

IV

In summary, therefore, we hold: (1) an operator's license is a privilege granted by the state, not a right, and the operator accepts the privilege subject to reasonable restrictions; (2) the right to use the public highways is subject to reasonable regulation for the public welfare; (3) roadblock stopping of vehicles for the purposes enumerated herein was reasonable and necessary and a valid exercise of the police power; (4) there was no showing of subterfuge to question the good faith of the officers; and (5) no constitutional right of the defendant was invaded. There is no error.

In this opinion PRUYN and LEVINE, JS., concurred.